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Order 99-2-6



UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.

Issued by the Department of Transportation
on the 8th day of February, 1999

-----: Served: February 10, 1999
Agreements Adopted by the Tariff Coordinating Conferences of the International : Docket OST-98-4712-L
Air Transport Association relating to : R-1 through R-7
TC31 passenger fares :
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ORDER

Various members of the International Air Transport Association (IATA) have filed an agreement with the Department under section 41309 of Title 49 of the United States Code (Code) and Part 303 of the Department's regulations. The agreement was adopted at the TC31 Passenger Tariff Coordinating Conference held in Montreal, Canada, October 15-25, 1998. 1/

The agreement increases first and intermediate class fares from the United States to Hong Kong and Macau by ten percent and from the United States, Canada, and Mexico to Japan by five percent; increases first and intermediate class fares from Hong Kong and Macau to the United States by five percent; and increases normal fares from Pakistan ten percent, and special fares fifteen percent. Minor changes in seasonality were made to excursion fares to and from China.

First and intermediate class Circle Pacific fares from the United States were increased eight and fifteen percent, respectively, while first and intermediate class fares in other markets were increased between five and eleven percent. While economy class Circle Pacific fares were unchanged to or from the U.S., they were increased between three and ten percent in other markets. Circle Pacific fares were introduced from Beijing, Guangzhou, and Shanghai, reestablished from Adelaide, Darwin, and Perth, and established for Macau at the levels from Hong Kong.

We will approve the agreement. Our approval of the increased and re-established level of premium and special excursion fares is consistent with Department policy as stated in Order 85-3-8, March 4, 1985. We allow carriers wide latitude in pricing these types of fares, which are generally sensitive to market demand and other competitive pressures that obviate the need for regulatory intervention in most circumstances.

1/ IATA memorandum PTC31 N/C 0072, PTC31 N/C 0073, and PTC31 S/CIRC 0055, filed with the Department on November 4, 1998.

Our approval of the proposed normal economy fares and conditions is similarly consistent with Department policy as stated in Order 88-4-5, April 1, 1988, where we indicated that we would not impose our standard conditions holding proposed normal economy fares to regulatory ceilings based on the Standard Foreign Fare Level (SFFL) in markets where no direct air service is provided. There is no direct transpacific service between Pakistan and the United States, the only U.S. market in which normal economy fares were changed.

Pursuant to the authority duly assigned under the Department's Regulations, 14 CFR 385.13:

1. We do not find that the resolutions in Docket OST-98-4712, as set forth below and which have direct application in foreign air transportation as defined by the Code, are adverse to the public interest, in violation of the Code, or likely to lessen competition substantially;

Docket OST-98-4712

TC31 N/C 0072, N/C 0073, S/CIRC 0055 Fare Resolutions

<u>Resolution</u>	<u>Description</u>
R-1; 002a	Special Amending Resolution Between TC3 (Except Japan) And North America, Caribbean (New)
R-2; 070p	Excursion Fares From North America, Caribbean, To Korea, South East Asia (Amending)
R-3; 077p	APEX Fares Between China (Excluding Hong Kong SAR) And North America, Caribbean (Amending)
R-4; 077r	One Way APEX Fares Between China (Excluding Hong Kong SAR) And North America, Caribbean (Amending)
R-5; 002j	Special Amending Resolution Between Japan and North America, Caribbean (New)
R-6; 002c	Circle Pacific Special Amending Resolution (New)
R-7; 073c	Circle Pacific APEX Fares (Amending)

2. This agreement is a product of the IATA tariff conference machinery, which the Department found to be anticompetitive but nevertheless accepted on foreign policy and comity grounds by Order 85-5-32, May 6, 1985. The Department found that important transportation needs were not obtainable by reasonably available alternative means having materially less anticompetitive effects. Anti-trust immunity was automatically conferred upon these conferences because, where an anticompetitive agreement is approved in order to attain other objectives, such conferral is mandatory under 49 U.S.C. 41308.

Order 85-5-32 contemplates that the products of fare and rate conferences will be subject to individual scrutiny and will be approved, provided they are of a kind specifically sanctioned by Order 85-5-32 and are not adverse to the public interest or in violation of the Code. As with the underlying IATA conference machinery, upon approval of a conference agreement, immunity for that agreement must be conferred under the Code. Consequently, we will grant antitrust immunity to the agreement in Docket OST-97-3009, as set forth in finding paragraph 1 above, subject to previous conditions imposed.

ACCORDINGLY,

We approve and grant antitrust immunity to the agreement contained in Docket OST-98-4712, as set forth in finding paragraph one, subject, where applicable, to conditions previously imposed.

Persons entitled to petition the Department for review of this order, under 14 CFR 385.50, may file such petitions within ten days after the date of service of this order.

This order shall be effective and shall become the action of the Department of Transportation upon expiration of the above period, unless within such period a petition for review is filed or the Assistant Secretary for Policy and International Affairs gives notice that he will review this order on his own motion.

By:

Paul L. Gretch

Director, Office of International Aviation

(SEAL)

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